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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,666

12/07/2005

Innocente Marchante Moreno

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OLIFF & BERRIDGE, PLC

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EXAMINER

LEYSON, JOSEPH S

ART UNIT

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1791

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/551,666	Applicant(s) MARCHANTE MORENO, INNOCENTE	
	Examiner JOSEPH LEYSON	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/07/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species A, drawn to claims 1-8, 10 and 11, in the reply filed on November 14, 2007 is acknowledged. The traversal is on the ground(s) that the restriction is contrary to PCT Articles and Rules, such as PCT Article 27 and PCT Rules 13.1 and 13.4, and that an "Election of Species Requirement" is a convention specific to U.S. National Patent Examination practice and is NOT allowed by the PCT Articles and Rules. This is not found persuasive because PCT Articles and Rules do NOT prohibit an "Election of Species Requirement" because such a requirement still follows the PCT Articles and Rules and is NOT different from or in addition to the requirements of the PCT Articles and Rules. The "Election of Species Requirement", as stated in the previous office action mailed on October 17, 2007, provides the rationale why the claims do NOT encompass one single general inventive concept and why the claims have different special technical features, as required by PCT Rule 13 to show a lack of unity of invention. Furthermore, MPEP 1850 (i.e., MPEP 1850, IX) clearly shows that an "Election of Species Requirement" is allowable within the PCT Articles and Rules.

The requirement is still deemed proper and is therefore made FINAL.

2. Claim 9 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 14, 2007.

Specification

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

4. The disclosure is objected to because of the following informalities: on p. 12, line 4, "third cylinder 9" should be changed to --third cylinder 8--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

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5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-8, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the phrase "of the double drawing stage device kind" which is indefinite as to its scope because it is not clear what the phrase is intended to convey. Claim 1 recites the phrase "particularly" which is indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. The examiner has given the claim its broadest reasonable interpretation, and thus the limitation(s) following the phrase are considered NOT to be positive limitations.

Claim 3 recites the phrases "in particular" and "such as" which are indefinite because it is unclear whether the limitation(s) following the phrases are part of the claimed invention. The examiner has given the claim its broadest reasonable interpretation, and thus the limitation(s) following the phrase are considered NOT to be positive limitations. Claim 3 recites "the frame" which lacks antecedent basis making it unclear to what it refers.

Claim 4 recites the phrase "such as" which is indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. The examiner has given the claim its broadest reasonable interpretation, and thus the limitation(s) following the phrase are considered NOT to be positive limitations.

Claim 5 recites the phrase "particularly" which is indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. The examiner has given the claim its broadest reasonable interpretation, and thus the limitation(s) following the phrase are considered NOT to be positive limitations.

Claim 6 recites the phrase "for example" which is indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. The examiner has given the claim its broadest reasonable interpretation, and thus the limitation(s) following the phrase are considered NOT to be positive limitations.

Claim 11 recites the phrase "preferably" which is indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. The examiner has given the claim its broadest reasonable interpretation, and thus the limitation(s) following the phrase are considered NOT to be positive limitations. Claim 11 recites the phrase "of the belt type" which is indefinite as to its scope because it is not clear what the phrase is intended to convey.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 2 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1,105,029 in view of Sudduth et al. (US 6,372,172).

GB 1,105,029 discloses a longitudinal drawing device for synthetic films, of the multiple drawing stage device kind, with drawing cylinders, characterized in that it comprises four drawing cylinders 6, 7, 8, 9 (inherently having fixed axles, i.e., see figure; p. 2, lines 98-103) over which the film 5 that is to be drawn passes in succession, with a first drawing cylinder 6, a second drawing cylinder 7 the axle of which is offset forward and vertically with respect to the axle of the first drawing cylinder 6, a third drawing cylinder 8 the axle of which is offset forward and vertically with respect to the axle of the second drawing cylinder 7, and a fourth drawing cylinder 9 the axle of which is offset forward and vertically with respect to the axle of the third drawing cylinder 8, the device also comprising motorized means for the rotational drive of all or some of the drawing cylinders 6, 7, 8, 9, at differentiated speeds, so as to form a first drawing stage between the second cylinder 7 and the third cylinder 8 and so as to form a second drawing stage between the third cylinder 8 and the fourth cylinder 9, the drawing of the film 5 thus occurring on each side of the third cylinder 8 (i.e., p. 2, lines 104-117). The motorized rotational-drive means are designed to drive the first drawing cylinder 6 and the second drawing cylinder 7 almost in synchronism, that is to say with a slightly higher speed for the second cylinder 7 (i.e., p. 2, lines 109-117; the speed having a ratio lower than 2:1). The motorized rotational-drive means are designed to positively drive the four drawing cylinders 6, 7, 8, 9, the third drawing cylinder 8 being driven at a speed higher than that of the second cylinder 7 and defining the draw ratio in the first drawing stage, and the fourth drawing cylinder 9 being driven at a speed higher than that of the third drawing cylinder 8 and defining the draw ratio in the second drawing stage (i.e., p.

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2, lines 109-117). However, GB 1,105,029 does not disclose press elements, particularly press cylinders, associated with the drawing cylinders; or the drawing cylinders having position-adjustable axles.

Sudduth et al. (US 6,372,172) disclose a longitudinal drawing device for synthetic films, of the multiple drawing stage device kind (i.e., col. 5, lines 46-58), with drawing cylinders and press elements, particularly press cylinders 124, 128, 132, 136, associated with the drawing cylinders, characterized in that it comprises four drawing cylinders 122, 126, 130, 134 over which a film 110 that is to be drawn passes in succession. The press cylinders and the drawing cylinders create nips for holding the film to the drawing cylinders (i.e., col. 4, line 50, to col. 5, line 5). The distance between adjacent nips MAY be adjusted (i.e., the axles of the press cylinders and the drawing cylinders may be fixed or may be position adjustable) to change the draw distance (i.e., col. 5, lines 5-9 and 34-58).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the device of GB 1,105,029 with press cylinders because such a modification is well known and conventional in the art and would hold the film to the drawings cylinders by creating a nip between the press cylinders and the drawing cylinders, as disclosed by Sudduth et al. (US 6,372,172); and/or to modify one or more of the drawing cylinders to have a respective position-adjustable axle because such a modification would enable a draw distance to be changed, as disclosed by Sudduth et al. (US 6,372,172).

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1,105,029 in view of Sudduth et al. (US 6,372,172) as applied to claims 1, 2 and 5-8 above, and further in view of Comerio (US 4,408,974).

Comerio (US 4,408,974) discloses a longitudinal drawing device for a film 1 with drawing cylinders 17, 19, 21 mounted on a mobile coupling 65, in particular articulated to a frame (i.e., figs. 6 and 7) of the device, and motorized means, such as at least one ram, provided for moving the mobile coupling 65 with a view to varying the nip (i.e., regulating the drawing distance) between adjacent drawing cylinders (i.e., col. 4, lines 27-35; col. 7, lines 1-43).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to further modify the device with a mobile coupling, articulated to a frame of the device, and motorized means, such as at least one ram, being provided for moving the mobile coupling with a view to varying the nip between any adjacent drawing cylinders because such a modification would provide means for varying the drawing distance, as disclosed by Comerio (US 4,408,974). Note that varying the nip or drawing distance between adjacent drawing cylinders is desired by Sudduth et al. (US 6,372,172), as mentioned above.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1,105,029 in view of Sudduth et al. (US 6,372,172) as applied to claims 1, 2 and 5-8 above, and further in view of Chill (US 3,619,460).

Chill (US 3,619,460) discloses a longitudinal drawing device for a film 1 with drawing cylinders 3, 5, 7, 8 and press cylinders 2, 4, 6, 8 pressed against the drawing

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cylinders at points of tangency of the film 1 or close to these points of tangency. The press cylinders can be used for high speed operation (col. 3, lines 25-37).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to further modify the device such that the press cylinders are pressed against the drawing cylinders at points of tangency of the film or close to these points of tangency because such a modification is well known and conventional in the art, as disclosed by Chill (US 3,619,460), and would provide an alternative configuration known to be operable in the art and/or would enable the device to be used at high speed.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1,105,029 in view of Sudduth et al. (US 6,372,172) as applied to claims 1, 2 and 5-8 above, and further in view of Hagiwara et al. (US 4,683,093).

Hagiwara et al. (US 4,683,093) disclose a longitudinal drawing device (fig. 4 or 5) for a film 11 with drawing cylinders 12, 12a, 12b, 12c and press cylinders 13, 13a, 13b, 13c, characterized in that the press cylinders associated with the drawing cylinders consists of an electrostatic close application system which enables holding of the film without slipping (i.e., col. 2, lines 42-45; col. 5, line 60, to col. 6, line 19).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to further modify the device such that at least one of a press cylinder and its associated drawing cylinder consists of an electrostatic close application system because such a modification is well known and conventional in the art and

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would enable holding of the film without slipping, as disclosed by Hagiwara et al. (US 4,683,093).

Allowable Subject Matter

12. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or reasonably suggest, the device as disclosed by instant claim 4, characterized in that the press elements, such as the press cylinders, are associated at least with the second drawing cylinder, with the third drawing cylinder and with the fourth drawing cylinder, the press element associated with the third drawing cylinder being supported by the mobile coupling so as to accompany this third drawing cylinder in its regulating movements.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hufnagel et al. (US 3,351,697) and Dauber (US 4,310,485) are cited as of interest to show the state of the art.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH LEYSON whose telephone number is (571)272-5061. The examiner can normally be reached on M-F 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gupta Yogendra can be reached on (571) 272-1316. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JL


TIM HEITBRINK
PRIMARY EXAMINER
GROUP-130-1791

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